

REMARKS

Upon entry of this paper, claims 1 and 9 have been amended, claims 8, 10, and 11 have been canceled (with claim 6 having been previously canceled), and no claims have been added as new claims. Thus, claims 1-5, 7, and 9 are pending in this application upon entry of this amendment. No new matter has been added. The cancellation of claims 8, 10, and 11 should in no way be construed to be an acquiescence to any of the rejections stated. Claims 8, 10, and 11 are being canceled solely to expedite the prosecution of the present application. Applicants reserve the option to further prosecute the same or similar claims in the instant or a subsequent patent application.

Applicants gratefully thank the Examiner for the indication of allowability of claim 11 if rewritten according to the suggestions stated in the official action. In accordance with the Examiner's suggestion, Applicants have rewritten claim 11 in the form of an amendment to claim 1, which includes limitations from intervening claims 8 and 10, to place the pending claims in condition for allowance.

Rejections under 35 U.S.C. §103*Claims 1, 7, and 8*

Claims 1, 7, and 8 were rejected under 35 U.S.C. §103 as being unpatentable over US Patent No. 6,144,750 to Levin (Levin) in view of US Patent No. 5,640,457 to Gnecco (Gnecco). Claim 1 has been amended to more clearly identify the present invention in accordance with the Examiner's suggestions for allowability. Claim 8 has been canceled upon entry of this amendment. Applicants further distinguish the claimed invention from the above combination according to the following remarks.

The combination of Levin and Gnecco fails to teach, suggest, or disclose a treatment device for correcting impairments to hearing, comprising "an essentially cylindrically shaped housing, free

of external moving operational elements, and formed of metal, the housing having a battery compartment and a sound exit opening . . . wherein the battery compartment includes a ring magnet retaining means and a hole providing external access to the battery compartment, the hole exiting into a center recess of the ring magnet retaining means.” *See* amended claim 1. Levin and Gnecco likewise fail to teach, suggest, or disclose the aforementioned treatment device having a titanium or a titanium alloy housing.

Accordingly, Applicants respectfully submit that upon entry of the amendment presented herewith, claims 1 and 7 are allowable. Action to that end is respectfully requested.

Claims 2, 5, and 9

Claims 2, 5, and 9 were rejected under 35 U.S.C. §103 as being unpatentable over US Patent No. 6,144,750 to Levin (Levin) in view of US Patent No. 5,640,457 to Gnecco (Gnecco), and in further view of US Patent No. 6,041,128 to Narisawa (Narisawa). Claim 1 has been amended to more clearly identify the present invention in accordance with the Examiner’s suggestions for allowability. Applicants further distinguish the claimed invention from the above combination according to the following remarks.

The combination of Levin, Gnecco, and Narisawa fails to teach, suggest, or disclose a treatment device for correcting impairments to hearing, comprising an essentially cylindrically shaped housing, free of external moving operational elements, and formed of metal, the housing having a battery compartment and a sound exit opening . . . wherein the battery compartment includes a ring magnet retaining means and a hole providing external access to the battery compartment, the hole exiting into a center recess of the ring magnet retaining means (*see* amended claim 1) in conjunction with the additional limitations of claims 2, 5, and 9, which depend from claim 1. Accordingly, Applicants submit that claims 2, 5, and 9 are allowable based in part on their dependencies on claim 1, and further on their own claimed characteristics.

Claim 3

Claim 3 was rejected under 35 U.S.C. §103 as being unpatentable over US Patent No. 6,144,750 to Levin (Levin) in view of US Patent No. 5,640,457 to Gnecco (Gnecco), and in further view of US Patent No. 6,574,343 to Meier (Meier). Claim 1 has been amended to more clearly identify the present invention in accordance with the Examiner's suggestions for allowability. Applicants further distinguish the claimed invention from the above combination according to the following remarks.

The combination of Levin, Gnecco, and Meier fails to teach, suggest, or disclose a treatment device for correcting impairments to hearing, comprising an essentially cylindrically shaped housing, free of external moving operational elements, and formed of metal, the housing having a battery compartment and a sound exit opening . . . wherein the battery compartment includes a ring magnet retaining means and a hole providing external access to the battery compartment, the hole exiting into a center recess of the ring magnet retaining means (*see* amended claim 1) wherein the "sound exit opening is sealed by an acoustically transmitting, watertight film" (*see* claim 3). Accordingly, Applicants submit that claim 3 is allowable based in part on its dependency on claim 1, and further on its own claimed characteristics.

Claim 4

Claim 4 was rejected under 35 U.S.C. §103 as being unpatentable over US Patent No. 6,144,750 to Levin (Levin) in view of US Patent No. 5,640,457 to Gnecco (Gnecco) in view of US Patent No. 6,041,128 to Narisawa (Narisawa), and in further view of US Patent No. 6,574,343 to Meier (Meier). Claim 1 has been amended to more clearly identify the present invention in accordance with the Examiner's suggestions for allowability. Applicants further distinguish the claimed invention from the above combination according to the following remarks.

The combination of Levin, Gnecco, Narisawa, and Meier fails to teach, suggest, or disclose a treatment device for correcting impairments to hearing, comprising an essentially cylindrically shaped housing, free of external moving operational elements, and formed of metal, the housing having a battery compartment and a sound exit opening . . . wherein the battery compartment includes a ring magnet retaining means and a hole providing external access to the battery compartment, the hole exiting into a center recess of the ring magnet retaining means (*see* amended claim 1) wherein the battery compartment has a watertight seal and wherein “the sound exit opening is sealed by an acoustically transmitting, watertight film” (*see* claim 4). Accordingly, Applicants submit that claim 4 is allowable based in part on its dependency on claim 1, and further on its own claimed characteristics.

Claim 10

Claim 10 was rejected under 35 U.S.C. §103 as being unpatentable over US Patent No. 6,144,750 to Levin (Levin) in view of US Patent No. 5,640,457 to Gnecco (Gnecco), and in further view of US Patent No. 5,675,657 to Giannetti. Claim 10 has been canceled, and therefore no longer stands rejected.

Applicants respectfully submit that the various combinations of Levin, Gnecco, Narisawa, Meier, and Giannetti fail to disclose or suggest every limitation of Applicants’ pending claims as amended. Applicants further submit that the claims of the present invention are not obvious with respect to, and are therefore allowable over, the cited references.

CONCLUSION

In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance. Applicant courteously solicits allowance of the claims in the form of a Notice of Allowance. Should there be any further outstanding issues of patentability following the entry of this amendment, a telephone interview is respectfully requested to resolve such issues.

Applicant believes no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. HHI-033US from which the undersigned is authorized to draw.

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Respectfully submitted,

By


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